### CITY COUNCIL ATLANTA, GEORGIA

# A RESOLUTION BY THE PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

A RESOLUTION AUTHORIZING THE SETTLEMENT OFALL CLAIMS RESULTING FROM THE CASE OF FOGARTY V. POCOCK, ET. AL., UNITED STATES 02- 2-1002 DISTRICT COURT, NORTHERN DISTRICT OF GEORGIA, ATLANTA DIVISION, CIVIL ACTION FILE NUMBER 1:01-CV-2506-CAP, IN AN AMOUNT NOT TO EXCEED \$5,000.00; AUTHORIZING THE CHIEF FINANCIAL OFFICER TO DISBURSE THE SETTLEMENT AMOUNT; AND FOR OTHER PURPOSES.

WHEREAS, <u>Fogarty v. Pocock</u>, <u>et. al.</u>, Civil Action Number 1:01-CV-2506-CAP, is a case pending in the United States District Court, Northern District of Georgia, Atlanta Division, in which the City of Atlanta and several employees of the Department of Corrections, who were employed by the City of Atlanta at the time of Plaintiff's incarceration in the Atlanta City Detention Center Annex, are named as Defendants; and

WHEREAS, the City of Atlanta and Thomas Pocock, I. Ney Lawson, Kenneth Stevens, Melinda Wells, Arnitra Mathis, and Virginia Ingram, who are employed by the City of Atlanta Department of Corrections, are named as Defendants to the suit; and

WHEREAS, the Plaintiff alleges that he has suffered cruel and unusual punishment in violation of the Eighth Amendment and 42 U.S.C.§ 1983 while detained at the Atlanta Pretrial Detention Center Annex through deliberate indifference to his health caused by unwilling exposure to Environmental Tobacco Smoke and inadequate medical treatment during an incident requiring treatment for his kidney; and

WHEREAS, the Plaintiff further alleges that the conditions in the Annex, which houses federal inmates under an agreement with the U.S. Marshall, violated his constitutional rights, claiming, inter alia, that barber conditions are unlicensed; linens and bathroom facilities are unsanitary; meals are unbalanced and unhealthy; etc.; and

WHEREAS, Plaintiff intends to seek certification of his case as a class action and appointment of an attorney to represent the class in the event this case is not settled; and

WHEREAS, the Plaintiff has agreed to accept \$5,000.00 in settlement of all claims against the City of Atlanta and/or its agents; and

WHEREAS, the Plaintiff has brought forth claims for which the further defense and/or preparation for trial could reasonably be anticipated to cause the City of Atlanta to incur expenses in excess of the amount offered by Plaintiff for full settlement of all claims against the City of Atlanta and/or its agents; and

WHEREAS, the Interim City Attorney opines that it will cost more than \$5,000.00 to defend this case through discovery, and motions, prior to any trial of this matter; and

WHEREAS, the City Attorney has done an extensive review of the facts and the law and has determined that the City's potential financial exposure pursuant to Plaintiff's claims is in excess of the settlement amount offered; and

WHEREAS, by this settlement, Defendants admit no liability; and

WHEREAS, the City Attorney considers it to be in the best interest of the City to resolve this matter and recommends that the City pay the amount of \$5,000.00 to settle all claims,

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY RESOLVES THAT:

SECTION 1. The City Attorney is hereby authorized to settle the case of <u>Fogarty v. Pocock</u>, et. al., for an amount not to exceed Five Thousand Dollars and Zero Cents (\$5,000.00).

SECTION 2. The Chief Financial Officer is authorized to pay a total amount not to exceed \$5,000.00 to Timothy Sean Fogarty to settle this case, from Account No. 1A01-529017-T31001.

ADOPTED by the Council APPROVED by the Mayor

JUN 17, 2002 JUN 20, 2002

Deputy Clerk

RCS# 3806 6/17/02 2:59 PM

02-R-1071

### Atlanta City Council

#### Regular Session

CONSENT I Pgs. 1-11: Except Certain City Utility
Items
ADOPT

YEAS: 15
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 1
EXCUSED: 0
ABSENT 0

Y Y	Smith Starnes Young	Y Y	Archibong Fauver Shook	Y Y	Moore Martin Maddox	Y Y	Mitchell Norwood Willis	ITEM (S) REM CONSENT AC	MOVED FROM GENDA
Y	Winslow	Y	Muller	Y	Boazman	ΝV	Woolard	02-0-0164	02-R-1009
								02-O-0901	02-R-1010
								02-R-0972	02-R-1011
								02-R-1004	02-R-1012
								02-R-1005	02-R-1023
								02-R-1006	02-R-1024
								02-R-1007	02-R-1025
								02-R-1008	02-R-1026

### 06/17/02 Council Meeting

## ITEMS ADOPTED ON CONSENT AGENDA

- 1. 02-O-0973
- 2. 02-0-1036
- 3. 02-0-0908
- 4. 02-0-0909
- 5. 02-0-0956
- 6. 02-O-1029
- 7. 02-0-1043
- 8. 02-R-1000
- 9. 02-R-1001
- 10. 02-R-1002
- 11. 02-R-1003
- 12. 02-R-1016
- 13. 02-R-1033
- 14. 02-R-0676
- 15. 02-R-1018
- 16. 02-R-1019
- 10. 02-10-1013
- 17. 02-R-1069 18. 02-R-1070
- 19. 02-R-1030
- 19. 02-10-1000
- 20. 02-R-0978
- 21. 02-R-0979 22. 02-R-0980
- 22. U2-R-U96U
- 23. 02-R-0981
- 24. 02-R-0982
- 25. 02-R-0983
- 26. 02-R-0984
- 27. 02-R-0985
- 28. 02-R-0986

# ITEMS ADVERSED ON CONSENT AGENDA

- 29. 02-R-0987
- 30. 02-R-0988
- 31. 02-R-0989
- 32. 02-R-0990
- 33. 02-R-0991
- 34. 02-R-0992
- 35. 02-R-0993
- 36. 02-R-0994
- 37. 02-R-0995 38. 02-R-0996
- 38. UZ-R-U990
- 39. 02-R-0997 40. 02-R-0998
- 41. 02-R-0999

	First Reading	ading	FINAL COUNCIL ACTION
	Committee		□2nd □1st & 2nd □3rd
(DOTNot Write Above Mis Line)	Chair Referred to		Readings
A RESOLUTION	Committee (Committee	Committee	GConsent □V Vote ☑RC Vote
BY THE PUBLIC SAFETY AND LEGAL	Date	Date	CERTIFIED
AUTHORIZING THE SETTLEMENT	Chair	Chair	
ALL CLAIMS RESULTING FROM THE CASE OF FOGARTY V. POCOCK, ET. AL., UNITED STATES		Action:	
DISTRICT COURT, NORTHERN DISTRICT OF GEORGIA, ATLANTA DIVISION, CIVIL ACTION FILE NUMBER 1:01-CV-2506-CAP, IN AN AMOUNT NOT TO EXCEED	Fayr Adv, Hold (see rev. side) Other:	Fav, Adv, Hold (see rev. side) Other:	ZOOZ L I NOC
\$5,000.00; AUTHORIZING THE CHIEF FINANCIAL OFFICER TO DISBURSE THE SETTLEMENT AMOUNT; AND FOR OTHER PURPOSES.	Classic Marine	Members	attere Un. hotellard
APPROVED:	water ductured		
ROSALIND RUBENS NEWELL ADOPTED BY	Refer To	Refer To	
Jun 1 7 2002	Committee	Committee	SOUNT TO SOUR
IIOO IOO	Date	Date	MUNICIPAL CLERK
CONSENT REFER REGULAR REPORT REFER	Chair	Chair	
D ADVERTISE & REFER D 1st ADOPT 2nd READ & REFER D PERSONAL PAPER REFER	Action: Fav, Adv, Hold (see rev. side)	Action: Fav, Adv, Hold (see rev. side)	MAYOR'S ACTION
Date Referred	Other:	Other:	The Conference of the Conferen
Referred To:	Members	Members	
Date Referred			JANA WINE
Referred To:			
Date Referred	Refer To	Refer To	MAYOR
Referred To:			